

BEFORE THE BOARD OF ARCHITECTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED  
amendment of ARM 24.114.403 ) AMENDMENT AND ADOPTION  
regarding business entity )  
practice and the proposed ) NO PUBLIC HEARING  
adoption of NEW RULE I ) CONTEMPLATED  
pertaining to fee abatement )

TO: All Concerned Persons

1. On July 18, 2005, the Board of Architects proposes to amend ARM 24.114.403 business entity practice and to adopt NEW RULE I fee abatement.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Architects no later than 5:00 p.m., on July 11, 2005, to advise us of the nature of the accommodation that you need. Please contact Brooke Jasmin, Board of Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2351; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdark@mt.gov.

3. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.114.403 BUSINESS ENTITY PRACTICE (1) remains the same.

(2) Nothing shall prevent a partnership (including a registered limited liability partnership), limited liability company, or corporation (including a professional corporation) from performing or holding itself out as able to perform any of the services involved in the practice of architecture, provided, that:

(a) two-thirds of the total general partners (if a partnership), ~~two-thirds of the~~ managers (if a limited liability company), or ~~two-thirds of the~~ directors (if a corporation) are registered under the laws of any United States jurisdiction or any foreign jurisdiction approved by the board as architects or engineers; and ~~that~~

(b) one-third of the total general partners, managers or directors are registered as architects in Montana.

AUTH: ~~37-65-101, 37-65-102, 37-1-131,~~ 37-65-204, MCA  
IMP: ~~37-1-303,~~ 37-65-101, ~~37-65-204,~~ 37-65-302, MCA

REASON: The Board has determined that it is reasonable and necessary to amend ARM 24.114.403 to reduce confusion among

licensees and license applicants and clarify the intent of the Board regarding business entities engaged in the practice of architecture. The intent of the Board has been, and remains to be, to require business entities offering architectural services in Montana to have 2/3 of the total number of managers, general partners or directors be registered or licensed somewhere as architects or engineers, and have 1/3 of the total managers, partners or directors be Montana-licensed architects. The Board has received and responded to numerous requests for clarification of this rule. The authority and implementation cites are being amended to correctly identify the full statutory authority of the Board to engage in rulemaking and the statutes implemented through this administrative rule.

4. The proposed new rule provides as follows:

NEW RULE I FEE ABATEMENT (1) The board of architects adopts and incorporates by reference the September 24, 2004, fee abatement rule of the department of labor and industry found at ARM 24.101.301.

(2) A copy of ARM 24.101.301 is available by contacting the Board of Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513.

AUTH: 37-1-131, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: The Board has determined there is reasonable necessity to adopt New Rule I and incorporate by reference ARM 24.101.301 to allow the Board to authorize the Department to perform renewal licensure fee abatements as appropriate and when needed, without further vote or action by the Board. The Department recently adopted ARM 24.101.301 to implement a means for the prompt elimination of excess cash accumulations in the licensing programs operated by the Department.

Adoption and incorporation of ARM 24.101.301 will allow the Department to promptly eliminate excess cash balances of the Board that result from unexpectedly high licensing levels or other non-typical events. Abatement in such instances will allow the licensees who have paid fees into the Board's program to receive the temporary relief provided by abatement. Adoption of this abatement rule does not relieve the Board from its duty to use proper rulemaking procedures to adjust the Board's fee structure in the event of recurrent instances of cash balances in excess of the statutorily allowed amount.

5. Concerned persons may present their data, views or arguments concerning the proposed amendment and adoption in writing to the Board of Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov). Any

comments must be received no later than 5:00 p.m., July 15, 2005.

6. If persons who are directly affected by the proposed amendment and adoption wish to express their data, views and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to the Board of Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov) to be received no later than 5:00 p.m., July 15, 2005.

7. If the board receives requests for a public hearing on the proposed amendment and adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment and adoption; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 46 persons based on approximately 459 licensees.

8. The Board of Architects maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Architects administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov); or may be made by completing a request form at any rules hearing held by the agency.

9. An electronic copy of this Notice of proposed amendment and adoption is available through the Department and Board's site on the World Wide Web at <http://www.architect.mt.gov>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of proposed amendment and adoption conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due

to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ KEITH KELLY

Keith Kelly, Commissioner  
DEPARTMENT OF LABOR & INDUSTRY

/s/ MARK CADWALLADER

Mark Cadwallader  
Rule Reviewer

Certified to the Secretary of State June 6, 2005